

1905-008 Chancery Causes: A. J. Litton vs. Adm. of Jacob Kimberling &c
Lee Co.

Ball, Small, Hartley, Arey, Hartly

CA-Debt
T-Property

- Correspondence

To the Hon. H. A. W. Skeen, Judge of the Circuit Court for Lee County, Virginia.

Humbly complaining, your orator, A. J. Litton, would respectfully represent and show unto your honor, that one Jacob Kimberling on the ____ day of _____, 19____, departed this life in said County, intestate, the owner of a small personal estate, and seized and possessed of a tract of land lying and being in said County on Walden's Creek containing eighty-seven acres, more or less and adjoining the lands of E. F. Young, Dr. Bradley Young, and James M. Durham; that the ^{personal} estate of the said Jacob Kimberling was, on the ____ day of _____, 19____ committed to P. M. Ball, sheriff of said county for administration, and the said administrator took charge of the said personal estate, but the same is not sufficient to pay the debts, funeral expenses &c., of the said estate.

Now your orator would further represent and show unto your honor, that the said Jacob Kimberland was at the time of his death indebted to your orator in the sum of \$52.77 by a note under seal, and which bears interest from the 6th day of February, 1888, subject to a credit of \$20.00 paid November 4th, 1890, upon which note your orator afterwards, to-wit, on the 16th day of February, 1905 obtained judgment before H. C. Joslyn, a Justice of the Peace for the said County for the amount of said note, and \$1.00 cost/ subject to said credit. Upon which judgment an execution was issued and placed in the hands of said sheriff for collection, and returned with this written endorsement thereon " No property or effects found. April 1st, 1905? P. M. Ball, S.L.C." The said judgment which has been docketed in the lien docket in the clerk's office of said County, and the execution issued thereon are herewith filed as part hereof marked "A", and no part of the same has ever been paid either by the said Kimberling in his life time, or by the said Ball as administrator since his qualification as such, but the amount thereof subject to said credit remains due and owing to your orator. And your orator is advised that there are other debts against said

decedent unpaid, and he files this bill on behalf of himself and all other creditors who will come into this suit and contribute to the cost of the same.

Your orator will further represent and show unto your honor that the said Jacob Kimberling bought the said land from one William J/ Cullum and wife, and that they conveyed the same to the said Kimberling by proper deed, but the said Kimberling from some cause has never had said deed recorded in the clerk's office, and your orator is advised, and therefore alleges that the said deed is in the possession of Ellen Kimberling the widow of the said Jacob Kimberling. *or G. W. H. Kimberling.*

Kimberling, Now, the object of this suit is, to have the indebtedness of the said estate ascertained by a commissioner, and the account of the said administrator settled, and the assets in his hands for the payment of the debts ascertained, and if necessary to subject the said real estate to the payment of the said debts should the personal estate be insufficient, and to accomplish that purpose your orator asks that the said Ellen Kimberling *or G. W. H. Kimberling whichever has it.* be compelled to file the said deed among the papers of this cause so that the same can be recorded, and the rights of the creditors of the said estate protected. To this end he makes the said Ellen Kimberling, widow as aforesaid, and the following children and heirs at law of the said Jacob Kimberling, to-wit, Hiram H. Kimberling, G. W. H. Kimberling, John E. Kimberling, Morgan Kimberling, Anna Small, nee Kimberling, W. P. Kimberling, Peter Kimberling, Mary Hartly, nee Kimberling, Addie Arey nee Kimberling, Minerva Kimberling, and P. M. Ball, administrator of Jacob Kimberling, deceased, ~~made~~ parties defendants to this bill and asks that they be required to answer the same, but they need not do so under oath and asks that that being expressly waived, ^{an} order of publication be made/ posted and published against the said W. P. Kimberling, Peter Kimberling, Mary Hartly, Addie Arey and Minervia Kimberling, who are non-residents; that the relief above prayed for be granted and all ^{such} other further and general relief as may be applicable, and to which your orator may be entitled in the premises. And your orator will ever pray &c.

Orator's V. L. p. 91.

Clerk Ewing - \$ 6.18
 atty 15.00
 Sheriff - 3.50
 Printer 6.20
 Tax. 1.50

clk - \$ 32.38
 40
 32.78

A. J. Littaro

Bill in Chy.

Ellen Kinderling et al.

1905 1st May Rules

Bill filed Sepa. is
 sent as to all home
 Depts. except - Anna
 Small and D. N. as to
 them, Continued for
 O. P. as to non-resi-
 dents

" 2nd May Rules

D. N. confirmed, A. P.
 completed & cause set
 for hearing.

A. J. Litton,

Plaintiff.

vs.

In Chancery

P. M. Ball, admr. of estate of Jacob Kimberling, de'd/

Ellen Kimberling, Hiram H. Kimberling, G.W .H.

Kimberling, John E. Kimberling, Morgan Kimberling,

W. P. Kimberling, Peter Kimberling, Mary, Hartley,

Addie Arey, and Minerva Kimberling.

Defendants.

This cause came on to be heard upon the bill of the plaintiff and exhibit therewith, the procees duly executed on the home defendants and the order of publication duly made posted and published against the non-resident defendants, and the cause regularly matured at rules and set for hearing by the plaintiff, and was argued by counsel.

On consideration thereof, and no^e of the said defendants appearing, and it appearing to the court that the matter in controversy was been compromi^sed and settled by some of the defendants with the plaintiff, and that it is agreed between the parties that this suit shall be dismissed at the cost of the defendants, it is adjudged order^{ed} and decreed that the said bill be and is hereby dismissed, and that the plaintiff recover against the said defendants his cost in this behalf expended, to be paid by P. M. Ball, administrator of Jacob Kimberling, deceased, out of the assets in his hands, should there be anything in his hands that can be applied for that purpose, but should there not be any such assests, then that the said cost be paid by the other defendants. And the cause is stricken from the docket .

A. J. Little
vs Decree
P. M. Ball Shurtab

Entered in C. O. B.
No. 8 - p. 44. &c.

Enter this Decree.
H. C. W. S. M.
May 22 1905.

Stickneyville Tenn

May Thre 2 1908

Miss Orr & Noell Attorneys

Jonesville Tenn

Sir Enclosed I have your my
check as requested for two dollars
to pay ^{on} & costs,, =

Mr J. W. Orr - as I guess you are
at Jonesville every day - I write
you what I have done & what I want
you to do, in the Kinkerling suit - Dr
Kinkerling & his Brother Come here to day
& insisted so hard on me to stop the
suit - They paid me part of my debt & give
me a bond to pay the debt & all costs to
this time, & I give them an order to the
Clerk to stop the suit,, & promised them
to write you to have it stopped as far as I am
concerned so - you will please have it
stopped - I will come down pretty soon
& pay all costs & pay you your fee
Yours truly A J. Lister

Letter,

VIRGINIA, LEE COUNTY, TO-WIT:

To The Sheriff or any, Constable of said County:

You are hereby commanded to summon P. M. Ball Adm of Jacob Kimberling dec if to be found in your county, to appear at Jonesville in said county, on the 16th day of Feb, 1905, before me or some justice of the peace of said county as may then be there to try this warrant, to answer the claim of A. J. Litton, in debt, to-wit, for the sum of Fifty-two dollars and 77 cents, due by Note. And then and there make return of this warrant. Given under my hand, this 9th day of Feb, 1905.

H. C. Foslyn, J. P.

Upon the hearing of the above warrant, judgment is that the plaintiff, A. J. Litton recover of the defendant, P. M. Ball Adm of Jacob Kimberling dec, the sum of Fifty-two dollars and 77 cents, with interest thereon from the 6th day of Feb 1888, ~~1900~~, till paid, and \$ 1.00 for his costs. This 16th day of Feb, 1905.

H. C. Foslyn, J. P.

VIRGINIA, Lee County, to-wit:

To The Sheriff, Constable of said County:

I command you, in the name of the Commonwealth of Virginia, that of the goods and chattles of P. M. Ball Adm of Jacob Kimberling dec, in your County, you cause to be made the sum of \$ 52.77, with interest thereon from the 6th day of Feb 1888, ~~1900~~, till paid, which A. J. Litton has recovered before me in a Warrant in Debt, and also the sum of \$ 1.00, which were adjudged to said A. J. Litton for costs in prosecuting said warrant. Given under my hand the 16th day of Feb, 1905.

H. C. Foslyn, J. P.

Hornstead
wained }

A Pay \$20.00 paid
Nov 4th 1890.

A. J. Litton
vs. 3 Warrant

P. M. Ball Adm'r of
Jacob Kinberling & Co.

Executed by delivering
a true Copy of the
within warrant to

P. M. Ball Adm'r.

This Feb 9-1905-

J. M. Sloan
Deputy for P. M. Ball
Shriff Lee Co.

A.

Docketed in J.C.
Book Page 123 & J.C.D.
Page 81 Feb. 28, 1905.

No property or effects found.
April 1st 1905.

Clerk 55-7

In the Clerk's Office of the Circuit Court of the County of
Lee

A. J. Litton

Plaintiff

against

Ellen Kimberling et al

Defendant s.

This day

James W. Orr

personally appeared

before me

M. E. Flannery

Deputy Clerk of the said Court,

and being duly sworn, made oath that

H. P. Kimberling, Peter Kim-

berling, Mary Hartly, Addie Grey and Maudie
Kimberling

defendant s in the said suit are not resident s of the State of Virginia,

Given under my hand as Clerk of the said Court, this 15th day of April 1906.

H. P. Ewing, Clerk

A. J. Litton

vs.

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AFFIDAVIT FOR ORDER

OF

PUBLICATION.

Ellen Kimberling et al

Orr & Noel

p. q.

In the Clerk's Office of the Circuit Court of the County of

Lee On the 13th day of April 1905.

A. J. Litton

Plaintiff

Against

Ellen Kimberling et al

In Chancery.

Defendants

The object of this suit is to settle the estate of
Jacob Kimberling deceased, and ascertain the
debts against said estate, and, if necessary,
to subject both the personal & real estate of said
decedent to the payment of said debts.

And an affidavit having been made and filed that the defendants W. P.
Kimberling, Peter Kimberling, Mary North, and Solie Gray Kimberling
are not residents of the State of Virginia, it is ordered that they
do appear here within fifteen days after due publication
hereof, and do what may be necessary to protect their interests in this
suit. And it is further ordered that a copy hereof be published once
a week for four weeks in the Janesville Star,
and that a copy be posted at the front door of the court house of
this County as prescribed by law on the first day of the next term of the

~~Court~~.

A copy-----Teste.

Chas & Hark, C. G. J. A. Ewing Clerk.

A. J. Litton
vs } Order of
Publication.

Ellen Kimbrell et al

Virginia, Lee County, to-wit:
S. H. C. Ewing, Clerk of
The Circuit Court, for the
County aforesaid, in
the State of Virginia,
do certify that I posted
a true copy of the within
in order of publica-
tion at the front door
of the Court-house on
the 13th day of April
1905.

Given under my hand
This the 13th day of Apr-
1905-

S. H. C. Ewing, Clerk.

The Commonwealth of Virginia,

To the Sheriff of the County of ^{Hise} Lee, Greeting:

WE COMMAND YOU, That you summon P. M. Bell, Admin. of the estate of Jacob
Kimberling, deceased, Ellen Kimberling, T. P. Raw, H. P. Kimberling, G. W. K.
Kimberling, John E. Kimberling, Morgan Kimberling, Anna Small, nee
Kimberling, W. P. Kimberling, Peter Kimberling, Mary Thistle, nee Kimberling,
Addie Arny, nee Kimberling, and Minerva Kimberling,

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on
the 1st Monday in May, 1905, to answer a bill in chancery exhibited against them
in our said Court by A. J. Litton.

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the 19th
day of April, 1905, and 29th year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

H. C. T. Ewing, Clerk.

VS

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SUBPOENA
IN
CHANCERY.

-----p. q

To-----Rules.

-----Court.

The Commonwealth of Virginia,

To the Sheriff of the County of ^{Hise} Lee, Greeting:

WE COMMAND YOU, That you summon

M. Ball, Admin. of the estate of Jacob
Kimberling, deceased, Ellen Kimberling, Francis H. Kimberling, E. W. H.
Kimberling, John E. Kimberling, Morgan Kimberling, Anna Swallow, nee Kimberling
H. P. Kimberling, Peter Kimberling, Mary Hartly, nee Kimberling,
Addie Gray, nee Kimberling and Minerva Kimberling.

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on
the 1st Monday in May, 1905, to answer a bill in chancery exhibited against them

in our said Court by A. J. Litton

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the 19th
day of April, 1905, and the 29th year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

_____, Clerk.

A. J. Litton

VS

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SUBPOENA
IN
CHANCERY.

Ellen Kiebrling et al.

Exhibit p. q

To 1st May Rules.

Lee Circuit Court.
1905-

For
Anna Small -

Not Executed party
not found

Dis April 29 1905
DR Shepherd DS

The Commonwealth of Virginia,

To the Sheriff of the County of Lee, Greeting:

WE COMMAND YOU, That you summon

P. M. Ball, Admr. of the estate of Jacob

Kimberling, deceased, Ellen Kimberling, Frank L. Kimberling, G. W. L. Kimberling, John E. Kimberling, Morgan Kimberling, Anna Small, nee Kimberling, H. P. Kimberling, Peter Kimberling, Mary Hartley, nee Kimberling, Addie Arey, nee Kimberling, & Maudie L. Kimberling.

to appear at the Clerk's office of the Circuit Court of the County of Lee, at rules to be held for the said court, on

the *1st* Monday in *May*, 190*5*, to answer a bill in chancery exhibited against *them*

in our said Court by A. J. Little.

And have then there this writ. Witness, H. C. T. EWING, Clerk of our said Court, at the court-house, the *13th*

day of *April*, 190*5*, and *29th* year of the Commonwealth.

A Copy, Teste:

H. C. T. Ewing, Clerk.

_____, Clerk.

A. J. Litton

VS

SUBPOENA
IN
CHANCERY.

Ellen Kimberling et al

On & Held p. q

To 1st May Rules.

Lee Circuit Court.
1905

I have executed the within writ by delivering to Ellen Kimberling, her son, & registering, same at Kimberling & Morgan Registering Office in attached office (City thereof, and on 1st M. H. Kimberling by delivering to his wife, over 14 years of age, at this address, an attested office copy, and reading and explaining the same to her, he being absent, and on my self by accepting legal service of this writ.
April 20th 1905.

J. M. Ball, S. C. C.

Order of Publication

In the Clerk's Office of the Circuit Court
of the County of Lee, on the 13th day of
April 1905.

A. J. LITTON, Plaintiff.

vs

ELLEN KIMBERLING, et al Deft's
In Chancery

The object of this suit is to settle the estate of Jacob Kimberling, deceased, and ascertain the debts against said estate, and if necessary to subject both the personal and real estate of said decedent to the payment of said debts.

And an affidavit having been made and filed that the defendants W. P. Kimberling, Peter Kimberling, Mary Hartley, Addie, Arey and Minerva Kimberling, are not residents of the State of Virginia, it is ordered that they do appear here within fifteen days after due publication hereof, and do what may be necessary to protect their interests in this suit. And it is further ordered that a copy hereof be published once a week for four weeks in the Jonesville Star, and that a copy be posted at the front door of the Court house of this county, as prescribed by law.

A copy—Teste:

H. C. T. EWING, Clerk

ORR& NOEL, p. q.

a. J. Litton
vs { in chancery
Ellen Kinslock



I, J. C. Boutwell, editor
of The Jonesville Star, a weekly newspaper
published in the county of Lee, state of Virginia,
do hereby certify that the enclosed notice was
published in said paper once a week for four
successive weeks, commencing on the 13
day of April 1906

J. C. Boutwell Editor.

FEE \$ 6.20

PD through J. W. Orr.